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7
8 **IN THE UNITED STATES DISTRICT COURT**
9
10 **IN AND FOR THE DISTRICT OF ARIZONA**

11 MARTH A RODRIGUEZ, a single woman,

12 Case No.: CV-09-01853-PHX-MHB

13 Plaintiff,

14 vs.

15 QUALITY LOAN SERVICE CORP., a
16 California corporation; MIDFIRST BANK,
17 a nationally chartered bank and their
18 subsidiary MIDLAND MORTGAGE
19 COMPANY, an Oklahoma corporation;
20 WELLS FARGO BANK, N.A., a national
Banking association; TRES AMIGOS
PROPERTIES LLC, an Arizona limited
liability company; JOHN DOES I-X;
JANE DOES I-X; ABC CORPORATIONS
I-X; XYZ PARTNERSHIPS I-X,

21
22 **DEFENDANTS MIDFIRST BANK**
AND MIDLAND MORTGAGE
COMPANY'S MOTION FOR
SUMMARY DISPOSITION,
PURSUANT TO RULE 56(e)(2),
FEDERAL RULES OF CIVIL
PROCEDURE

23 (Assigned to the Honorable Michelle H.
24 Burns)

25 Defendants.

26
27 Defendants, MidFirst Bank ("MidFirst") and Midland Mortgage Company ("Midland"), by and
28 through their counsel undersigned, pursuant to Rule 56(e)(2), Federal Rules of Civil Procedure, move
29 for summary disposition of their Motion to Dismiss or, in the Alternative, Motion to for Summary
30 Judgment, filed on October 28, 2009. (Docket No. 17.) On that same date, Defendants filed their
31 Statement of Facts. (Docket No. 18.)

1 Pursuant to Rule 56(e)(2), when a Motion for Summary Judgment is properly made and
2 supported, an opposing party may not rely merely on allegations or denials in its own pleading. A
3 party must respond by Affidavits or as otherwise provided in Rule 56 and set out specific facts showing
4 a genuine issue for trial. "If the opposing party does not so respond, summary judgment should, if
5 appropriate, be entered against that party."

6 Pursuant to Rule 56.1(d), Rules of Practice of the United States District Court for the District of
7 Arizona, a party opposing a Motion for Summary Judgment has thirty (30) days after service within
8 which to serve and file a responsive memorandum. In this case, Plaintiff has failed to file any
9 responsive pleading. Therefore, Defendants request that the Court grant their Motion for Summary
10 Judgment on Counts I, II, III, IV and V of Plaintiff's Complaint. Defendants also request an award of
11 their attorney's fees, pursuant to A.R.S. § 12-341.01.

12 **RESPECTFULLY SUBMITTED** this 11th day of December, 2009.

13
14 **McCARTHY ♦ HOLTHUS ♦ LEVINE**

15
16 By:/s/ Paul M. Levine

17 Paul M. Levine
18 Matthew A. Silverman
19 Jessica R. Kenney
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Phoenix, Arizona 85012
20 Attorneys for Defendants Midfirst/Midland

21 ORIGINAL of the foregoing electronically
22 filed with the Clerk of the Court this 11th
day of December, 2009.

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24 ///

1 COPY of the foregoing emailed this 11th
2 day of December, 2009 to:

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12 /s/ Danielle Fratterelli